

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AMENDING THE UNIFIED LAND DEVELOPMENT CODE, ORDINANCE 03-067, AS AMENDED, AS RELATES TO AN INCLUSIONARY WORKFORCE HOUSING PROGRAM, AS FOLLOWS: **ARTICLE 1 - GENERAL PROVISIONS; CHAPTER I - DEFINITIONS AND ACRONYMS; ARTICLE 2 - DEVELOPMENT REVIEW PROCESS; CHAPTER F - CONCURRENCY (ADEQUATE PUBLIC FACILITY STANDARDS); ARTICLE 3 - OVERLAYS & ZONING DISTRICTS; CHAPTER E - PLANNED DEVELOPMENT DISTRICTS (PDDS); ARTICLE 5 - SUPPLEMENTARY STANDARDS; CHAPTER G - DENSITY BONUS PROGRAMS; ARTICLE 7 - LANDSCAPING; CHAPTER F - PERIMETER BUFFER LANDSCAPE REQUIREMENTS; ARTICLE 12 - TRAFFIC PERFORMANCE STANDARDS; CHAPTER H - AFFORDABLE HOUSING; PROVIDING FOR: INTERPRETATION OF CAPTIONS; REPEAL OF LAWS IN CONFLICT; SEVERABILITY; A SAVINGS CLAUSE; INCLUSION IN THE UNIFIED LAND DEVELOPMENT CODE; AND AN EFFECTIVE DATE.**

WHEREAS, Section 163.3202, Florida Statutes, mandates the County compile Land Development Regulations consistent with its Comprehensive Plan into a single Land Development Code; and

WHEREAS, pursuant to this statute the Palm Beach County Board of County Commissioners (BCC) adopted the Unified Land Development Code (ULDC), Ordinance 2003-067, as amended from time to time; and

WHEREAS, the Board of County Commissioners finds that dramatic increases in the cost of housing in Palm Beach County has created a critical shortage of affordable housing opportunities for the Palm Beach County workforce; and

WHEREAS, the lack of affordable housing opportunities for Palm Beach County workforce continues to reduce the labor pool available to County employers, and increasingly requires members of the workforce to live in adjacent counties, lengthening their work commute, consuming more fuel than necessary, and aggravating traffic congestion; and

WHEREAS, the Board of County Commissioners finds existing regulations which provide incentives for voluntary provision of workforce housing has proven ineffective; and

WHEREAS, allowing residential development to continue without mandatory regulations for workforce housing will further reduce an already dwindling supply of land available to address this critical shortage; and

WHEREAS, Section 163.3177 (3) (f), Florida Statutes, states that local government Comprehensive Plans shall contain a Housing Element consisting of standards, plans and principals to be followed in order to provide housing for all current and anticipated future residents of the jurisdiction, provide adequate sites for housing, including housing for low income, very low income, and moderate income families, and formulate housing implementation programs; and

1 **WHEREAS**, amendments to the Palm Beach County Comprehensive Plan adopted by the
2 Board of County Commissioners on August 21, 2006, requires the establishment of a
3 Mandatory Workforce Housing Program that sets aside a percentage of new housing units for
4 low, moderate and middle income households (60 to 150% of Area Median Income);

5 **WHEREAS**, in order to increase the supply of affordable housing opportunities, and to
6 prevent further irrevocable harm of allowing residential development to continue without
7 mandatory regulations, the Board of County Commissioners hereby amends the Unified Land
8 Development Code to provide inclusionary zoning, which shall be known as the Workforce
9 Housing Program; and

10 **WHEREAS**, the County Commission finds that establishing the Workforce Housing Program
11 is a valid exercise of its police powers and serves a compelling public purpose; and

12 **WHEREAS**, the Workforce Housing Program is the product of participation by the public in
13 general and the regulated community in particular, as well as advice from the Palm Beach
14 County Land Development Regulation Advisory Board; and

15 **WHEREAS**, the Land Development Regulation Commission has found these amendments
16 to the ULDC to be consistent with the Palm Beach County Comprehensive Plan; and

17 **WHEREAS**, the BCC hereby elects to conduct its public hearings on this Ordinance at 10:30
18 a.m.; and

19 **WHEREAS**, the BCC has conducted this public hearing to consider these amendments to
20 the ULDC in a manner consistent with the requirements set forth in Section 125.66, Florida
21 Statutes.

22
23 **NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS**
24 **OF PALM BEACH COUNTY, FLORIDA, as follows:**

25
26 **Section 1. Adoption**

27 The amendments set forth in Exhibit A attached hereto and made a part hereof, are hereby
28 adopted.

29 **Section 2. Interpretation of Captions**

30 All headings of articles, sections, paragraphs, and sub-paragraphs used in this Ordinance
31 are intended for the convenience of usage only and have no effect on interpretation.

32 **Section 3. Providing for Repeal of Laws in Conflict**

33 All local laws and ordinances in conflict with any provisions of this Ordinance are hereby
34 repealed to the extent of such conflict.

EXHIBIT A

INCLUSIONARY WORKFORCE HOUSING PROGRAM
SUMMARY OF ULDC AMENDMENTS

(Updated 9/27/06)

Part 1. ULDC, Art. 1.1.2, Definitions (page 53 of 96), is hereby amended as follows:

CHAPTER I DEFINITIONS AND ACRONYMS

Section 2 Definitions

I. Terms defined herein or referenced Article shall have the following meanings:

6. Income, WHP – The following household income ranges shall apply to the WHP. These income ranges are based on the Area Median Income (AMI) for Palm Beach County, as published annually by the U.S. Department of Housing and Urban Development.

a. Income, Low - A family of four that earns between 60 and 80 percent of the County's median income.

b. Income 1, Moderate - A family of four that earns between 80 and 100 percent of the County's median income.

c. Income 2, Moderate - A family of four that earns between 100 and 120 percent of the County's median income.

d. Income, Middle – A family of four that earns between 120 and 150 percent of the County's median income.

[Renumber Accordingly.]

U. Terms defined herein or referenced Article shall have the following meanings:

18. Usable open space for WHP – a common area such as a park, square, plaza or courtyard, accessible to the public and used for passive or active recreation or gatherings. Credit shall not be given for any indoor spaces, road R-O-W's, building setback areas, lakes or other water bodies, drainage or retention areas, parking lots, and other impervious surfaces or any pervious green area not intended for passive or active recreation.

[Renumber accordingly.]

Part 2. ULDC, Art. 1.1.3, Abbreviations and Acronyms (page 93 of 96), is hereby amended as follows:

CHAPTER I DEFINITIONS AND ACRONYMS

Section 3 Abbreviations and Acronyms

AMI Area Median Income

SIS Florida's Strategic Intermodal System

Part 3. ULDC, Art.2.F.3, Review for Adequate Public Facilities (page 41 of 49), is hereby amended as follows:

CHAPTER F CONCURRENCY (ADEQUATE PUBLIC FACILITY STANDARD)

Section 3 Review For Adequate Public Facilities

B. Procedure for Review of Application for a Concurrency Reservation

1. Submission of Application

a. Concurrency Reservation

An application for a concurrency reservation shall be submitted jointly with an application for a development order (joint review), to the Zoning Director in a form established by the Zoning Director and made available to the public. If the proposed development does not require site plan approval, the application shall be submitted at scheduled intake times (separate review) as specified on the Annual Zoning Division Calendar. The application shall be accompanied by a fee established by the BCC for the filing and processing of each application. The fee shall be non-refundable.

b. WHP Traffic Concurrency Hall Pass

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A WHP Traffic Concurrency Hall Pass is a provisional traffic concurrency approval that may be used for Projects subject to Art. 5.G.1, Workforce Housing Program. A WHP Traffic Concurrency Hall Pass Certificate shall be considered a traffic concurrency reservation only for the purposes of Art. 12.C.1.C.4.c, TPS Database, and shall be valid for a period of not more than 90 days.

An application for a WHP Traffic Concurrency Hall Pass may be submitted separate from an application for a development order to the Traffic Division Director in a form established by the Traffic Division Director and made available to the public. The application may be submitted at any time and shall be accompanied by a fee established by the BCC for the filing and processing of each application. The fee shall be non-refundable.

2. Determination of Sufficiency

a. Separate Review

Upon receipt of the application, the Zoning Director (or Traffic Division Director, in the case of a WHP Traffic Concurrency Hall Pass) shall initiate a review and within ten days determine whether the application is sufficient. If it is determined that the application is not sufficient, written notice shall be sent to the applicant specifying the deficiencies. The Zoning Director (or Traffic Division Director, in the case of a WHP Traffic Concurrency Hall Pass) shall take no further action on the application unless the deficiencies are remedied. If the deficiencies are not remedied within 20 days of written notification, the application shall be considered withdrawn.

4. Review and Recommendation

a. Separate Review

Within ten days of submittal or re-submittal, the application shall be forwarded to the PBC Departments and service providers for review. Within 15 working days of its receipt, the appropriate PBC Departments and service providers shall file a statement with the Zoning Director as to whether or not adequate public facilities are available, pursuant to the standards of Art. 2.F.3.C, Standards for Review of Application for Concurrency Reservation. In the case of an application for a WHP Traffic Concurrency Hall Pass, the same review time frames shall apply and the statement as to whether or not adequate public facilities are available pursuant to the standards of Art. 2.F.3.C, Standards for Application for Adequate Public Facilities Determination and Concurrency Reservation, shall be filed with the Traffic Director, with a copy to the Zoning Director.

5. 90 Day Negotiation

a. Separate Review

If the Zoning Director (or Traffic Division Director, in the case of a WHP Traffic Concurrency Hall Pass) determines that an application fails to meet any one of the public facility component standards of Article 2.F.3.C, Standards for Review of Application for Adequate Public Facilities Determination and Concurrency Reservation, the applicant shall be notified of such deficiency(s) in writing. If the applicant does not notify the Zoning Director (or Traffic Division Director, in the case of a WHP Traffic Concurrency Hall Pass) in writing that he/she wishes to withdraw the application, the application shall be entered into 90 day negotiation period with the service provider.

1) If during the 90 calendar day negotiation period, the applicant addresses the deficiencies, the application shall be reconsidered by the Zoning Director (or Traffic Division Director, in the case of a WHP Traffic Concurrency Hall Pass) and approved or denied consistent with the standards of this Chapter.

6. Approval

a. Separate Review

b. Joint Review

c. WHP Traffic Concurrency Hall Pass Certificate

If it is determined that adequate public facilities are available in compliance with the Art. 2.F.3.C.3, Traffic Facilities, the Traffic Director shall issue a Hall Pass Certificate. An application for a Concurrency Reservation in conjunction with a Development Order application shall be submitted within 90 days of issuance of the Traffic Concurrency Hall Pass Certificate or else it shall expire.

C. Standards for Review of Application for Adequate Public Facilities Determination and Concurrency Reservation

3. Traffic Facilities

The roads component shall be approved if the proposed development complies with Article 12, TRAFFIC PERFORMANCE STANDARDS. In determining whether the road component meets the requirements of this subsection, the Six Five Year Capital Road Improvement

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Schedule in the Capital Improvements Element may be considered only if the development proposed in the application is phased so that the impacts of the proposed development and the capacity provided by the road projects in the Six Five Year Road Improvement Schedule will occur concurrently. The phasing of development and transportation improvements to ensure the LOS for road facilities is met may be addressed through a development or road agreement.

D. Rules of General Applicability for a Concurrency Reservation

1. Expiration

Unless revoked by the BCC or the ZC reservation is valid for the life of a specific development order pursuant to Article 2.F, CONCURRENCY, or shall expire one year from the date of issuance of the reservation, whichever is applicable. If the Concurrency Reservation was based upon a converted WHP Traffic Concurrency Hall Pass, then the Reservation shall be valid for one year from the date of issuance of the Traffic Concurrency Hall Pass Certificate or for the life of the specific Development Order pursuant to Art 2.F, whichever is applicable. If the required development order is a building permit, then the application for the building permit must be submitted prior to the expiration date of the reservation. In such cases, the building permit must be issued within six months from the date of intake of the building permit application, or the reservation shall expire. If a reservation either expires or becomes invalid, the public facility capacity reserved by the reservation expires, and becomes additional available public facility capacity. An applicant cannot apply for a new reservation until the previous reservation has expired. The expiration or revocation of a development order shall result in the automatic expiration or revocation of the reservation. A reservation shall not expire if an application for a specific development order is pending. All Concurrency reservations shall be issued for the number of units or square footage shown on the approved site plan or master plan most recently certified by the DRO. For any Master Plan or Site Plan, which was approved for acreage only, the capacity for the approved use shall be calculated by the applicant and affirmed by the Zoning Division and each service provider. Any concurrency reservation shall be adjusted accordingly. Any increase in units or square footage above that shown on the current site plan/master plan shall be subject to concurrency review.

Part 4. ULDC, Art. 3.E.2, Planned Unit Development (PUD) (page 70 of 134), is hereby amended as follows:

CHAPTER E PLANNED DEVELOPMENT DISTRICTS (PDDS)

Section 2 Planned Unit Development (PUD)

A. General

4. Exemplary

A rezoning to the PUD district or a Development Order Amendment (DOA) to a previously approved PUD shall only be granted to a project exceeding the goals, policies and objectives in the Plan, the minimum requirements of this Code, and the design objectives and performance standards in this Article which include, but are not limited to, sustainability, trip reduction, cross access, buffering, aesthetics, creative design, vegetation preservation, recreational opportunities, mix of uses, mix of unit types, safety, and affordable housing. See the PBC Zoning Division Technical Manual for examples. A DOA to a previously approved PUD shall be reviewed pursuant to Article 1.E.1.C, Previous Approvals, of the ULDC.

B. Objectives and Standards

1. Design Objectives

c. Provide perimeter landscape areas to ~~connect or~~ buffer incompatible land uses, or where residential uses are adjacent to other incompatible design elements such as roadways, usable open space areas, where a more intense housing type is proposed, or where residential setbacks are less than adjacent residential development ~~within and outside~~ the perimeter of the PUD.

2. Required Performance Standards

A PUD shall comply with the following standards. Standards a – d are required and must be met. A minimum of two of the four standards listed in e – h are required:

a. ~~Landscape Buffers~~

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~~A minimum of 50 percent of the required canopy trees in the ROW buffer shall have a height of 14 feet. No overlap or easement encroachment shall be permitted in R-O-W buffer of utility easements.~~

ab. Proximity to Other Uses

All residential pods with five or more units per acre shall be located within 1,320 feet of a neighborhood park, recreation pod, private civic pod, commercial pod, or a public recreational facility.

1) Measurement of Distance

For the purpose of this Section, distance shall be measured by drawing a straight line between the property line of a residential Pod to the property line of the pod where the commercial/personal services are located.

c. Street Lights

~~All streets lights shall include decorative elements. Decorative elements shall not be included in the height limitation in Art.3.E.1.C.2.b, Street Lighting.~~

b.d.Focal Points

A focal point shall be provided at the terminus of 15 25 percent of the streets in the project. The focal point may be in the form of a plaza, fountain, landscaping, or similar amenity deemed acceptable to the DRO. The focal point shall not be located on a private residential lot.

ce. Neighborhood Park

~~Neighborhood parks shall be provided within each Pod and shall have a direct connection to the pedestrian system and include a tot lot, gazebo, fitness station, rest station, or similar recreation amenity. Neighborhood parks shall not be used towards the Parks and Recreation Departments minimum recreation requirements and shall not be located within areas designated for drainage, stormwater management or other utility purposes.~~

df. Drainage

Drainage easements shall not be permitted in the minimum required rear setback for residential structures.

g. Zero Lot Line (ZLL)

~~ZLL units with a ZLL side that abuts the rear property line of two or more lots shall be restricted to one story in height.~~

h. T-Intersection

~~Lots fronting a T-intersection in ZLL pods with three or more units per acre shall be limited to one of the following options:~~

- ~~1) unit with a side-loading garage;~~
- ~~2) easement or flip tract, a minimum 25 feet in width;~~
- ~~3) neighborhood park; or~~
- ~~4) focal point or alternative features acceptable to the DRO.~~

e. Decorative Paving

Decorative pavers shall be provided at the development entrances and incorporated into recreational areas.

f. Fountains

A minimum of one fountain shall be located in the main or largest lake or water body.

g. Benches or play structures

Benches or play structures shall be provided in usable open space areas and along pedestrian pathways.

h. Interspersed Housing

WFH units shall be interspersed with market rate units within a pod.

Part 5. Repealing ULDC, Art. 5.G.1, Workforce Housing Program (page 43 of 56), and adopting in it's place a new Art. 5.G.1, Workforce Housing Program, as follows:

CHAPTER G DENSITY BONUS PROGRAMS

Section 1 Workforce Housing Program (WHP)

A. Purpose and Intent

The WHP implements HE Policies 1.1-o and 1.5-g of the Plan, among others, by establishing an Inclusionary WHP. The program mandates or encourages the development and equitable geographic distribution of workforce housing units for low, moderate 1 and Moderate 2, and middle-income households, ensures a minimum affordability period, and provides for a density bonus and other incentives. The program is intended to increase the supply of housing opportunities for persons employed in PBC in jobs that residents rely upon to make the community viable.

B. Applicability

In cases of conflict between this Chapter and other Articles of this Code, the provisions of this Chapter shall apply. The WHP shall apply to all new developments with a residential component

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of 10 or more dwelling units. This shall include the expansion of existing projects that add 10 or more dwelling units, where the program shall apply to those units being added. Requirements and limitations are further defined in Table 5.G.1.B-13, Workforce Housing Program.

1. Exemptions

- a. Projects that target the development of units primarily limited to households having incomes that are less than or equal to 60 percent AMI, and use federal, state or local funding sources. An exemption may require the submittal of documentation indicating how income restrictions and affordability periods will be guaranteed. These projects may elect to utilize the WHP program, but any density bonus shall be subject to the requirements of Art. 5.G.1.F.1, Sector Analysis.
- b. All congregate living facilities (CLFs); and, nursing or convalescent facilities.

Table 5.G.1.B-13, Workforce Housing Program

Applicability		
Location:	Threshold	Required > or= to 10 residential dwelling units
	Tier or Overlay	U/S (including SCO), Exurban and Rural Tiers
	FLU (1)	RR-20, RR-10, RR-5, RR-2.5, LR-1, LR-2, LR-3, MR-5, HR-8, HR-12, HR-18
Density Bonus Incentive		
RR-20 thru LR-3		0 – 30%
MR-5 thru HR-18 (2)		0 – 100%
Required % of Affordable Units (3)		
Standard Density		6%
Maximum Density		20%
WHP Density Bonus		40%
Required Affordability Ranges (4)		
Low (60-80%)		25%
Moderate 1 (> 80-100%)		25%
Moderate 2 (>100-120%)		25%
Middle (>120-150%)		25%
Provision of Units		
On-site (5)		Minimum 25% of Required Workforce Units
Off site		Maximum 75% of any combination of options
	Option 1	Construct units off site
	Option 2	Purchase existing market rate units and deed to the County or sell to eligible households and deed restrict.
	Option 3	Donate buildable land acceptable to the County in an amount = or > than the buyout cost.
	Option 4	In-lieu Payment – 50% of unit maximum
Notes for Table 5.G.1.B-13, Workforce Housing Program Provisions		
1. Shall also apply to mixed use projects with applicable underlying FLU designations for Commercial and Industrial Mixed Use Development.		
2. A density bonus of >30% shall be permitted subject to meeting the additional standards of Art. 5.G.1.F, Additional Requirements for >30% Density Bonus.		
3. Percentages shall be rounded up to the nearest whole number.		
4. Based on County Median Income. Where assigning units to a category, priority may be given to middle income first, proceeding downward to low income (i.e. where 3 units are required, the first shall be middle [>120-150%]; the 2 nd Moderate 2 [>100-120%]; and, the 3 rd Moderate 1 [>80-100%]). This does not prohibit allowing higher numbers of lower income units.		
5. a. The DRO may waive the minimum 25% on-site requirement where mandatory workforce units total ten units or less; or		
b. If the homes in a development are valued at 200% or more of the median County home value (as updated by HCD).		
Note: This provision does not reduce the requirement to provide WHP units, and all units not located on site shall comply with options 1 through 4 for 100% of all mandatory Workforce housing units.		

C. Design Requirements

1. Design

WHP units shall be designed to be compatible with the overall project, as follows:

- a. All WHP units shall be constructed on site, unless approved otherwise in accordance with Art. 5.G.1.E, WHP Off Site Options;
- b. All affordable units shall be designed to a compatible exterior standard as other units within the development or pod; and
- c. Required WHP units may be clustered or dispersed throughout the project.

D. WHP Incentives

All projects with 10 or more residential units shall be eligible for WHP Incentives.

1. Density Bonus

Table 5.G.1.B-13, Workforce Housing Program, delineates the ranges of density bonus allowed for the WHP. For the purposes of this Section, permitted density shall be the number of units allowed by the standard density allowed by the Plan; or, the maximum density allowed by the Plan, where developed as a PDD, TDD or other density provision of the Plan. TDR units or any other density bonus shall not be included as part of the permitted density for purposes of calculating the WHP density bonus. To ensure compliance with the compatibility requirement of HE Objective 1.5 of the Plan, projects requesting a density bonus greater than 30 percent shall be subject to the requirements of Table 5.G.1.D-14, Review Process, and Art. 5.G.1.F, Additional Requirements for >30% Density Bonus.

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Table 5.G.1.D – 14, Review Process

Density Bonus	DRO Approval	Class A Conditional Use	Requested Use
Standard District >30% - 50%	X		
Standard District >50% - 100%		X	
PDD or TDD >30% - 100%			X

2. Traffic Performance Standards Mitigation

a. WHP Special Methodologies

TPS mitigation shall be permitted for WHP projects in accordance with Art. 12.H.6, Workforce Housing.

b. WHP Traffic Concurrency Hall Pass

TPS mitigation shall also include the option of applying for a WHP Traffic Concurrency Hall Pass separate from a development order application. The WHP Traffic Concurrency Hall Pass serves as a provisional traffic concurrency approval for a period of not more than 90 days, during which it must be merged into an application submitted for a Concurrency Reservation approval. The WHP Traffic Concurrency Hall Pass is described further in Art. 2.F.

3. Expedited Review

The following expedited review processes may apply to a proposed WHP development:

a. Design Review

Review of multifamily or townhouse structures by the Building Division and Fire Rescue shall be allowed concurrent with final DRO review, prior to permit application.

b. Platting

- 1) If only a boundary plat is required for an existing single lot, building permits may be issued after submittal of the final plat for recordation
- 2) If a subdivision plat is required, permits will be concurrently reviewed, but only issued at recording of the plat.
- 3) Pursuant to Article 3.E.1.G.1.a, Permits, Building permits may be issued for sales offices, sales models, gate houses, entry features, and utilities may be issued prior to the recording of a final plat.

4. Density Bonus Development Options

a. Purpose and Intent

To provide flexibility from property development and other related regulations in order to provide greater opportunity for cost effective development of WHP units. These provisions are not intended to supersede deviations that are normally addressed through the variance process. These options shall only be granted at the time of approval for the entire project, and shall not be granted on a lot-by-lot basis.

b. Applicability

Projects with ten or more units that utilize a density bonus incentive and are subject to the requirements of the WHP may utilize the Development Options listed herein.

c. Justification Report

Use of Density Bonus Development Options shall not be granted by right, and shall require submittal of a justification report that demonstrates that deviations are the minimum needed to allow for the use of density bonus incentives. The report shall include the following:

- 1) The regulations that are proposed to be modified.
- 2) The amounts and specifics of the requested deviation(s).
- 3) The areas within the development that the deviation(s) will be applied to.
- 4) Graphic representations such as, but not limited to, site plans, elevations, perspectives, and typical examples, showing how the deviations will meet the intent of the district and WHP with emphasis on open space, privacy, maintenance, and public health, safety and welfare.

d. Site Plan Approval

All projects requesting Density Bonus Development Options, shall submit an application and site plan to the DRO for certification where applicable, and for final site plan approval for all others. The site plan shall indicate in the tabular data all Development Options requested and where feasible, a regulating plan shall be included to provide typical examples. Approval shall be granted only for the minimum deviations needed to allow for the use of density bonus incentives and where the requirements of all applicable reviewing agencies have been met.

e. Drainage

Any reduction in lot size or open space area, or increase in building coverage shall be subject to approval of a drainage study demonstrating that reduced pervious surface area will not create adverse drainage issues.

f. Option 1 - AR, RE and RT Districts

This option is limited to residential projects using up to but not exceeding a 30 percent density bonus, in accordance with Table 5.G.1.B-13, Workforce Housing Program.

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- 1) **AR and RE Minimum Lot Size in RR FLU Designation**
Minimum required lot size may be reduced by dividing gross acreage by the total number of permitted units to include the highest standard density permitted and any bonus units.
- 2) **AR FAR Calculations**
New SFD lots in the AR district shall be permitted to calculate FAR based on the acreage of the FLU designation.
- 3) **RT PDR Deviations**
Deviations from the minimum PDRs for the RT district with a LR 2 or LR 3 FLU designation may be in accordance with Table 5.G.1.D-15 RT Deviations for WHP, only for those projects that qualify for maximum density in accordance with Table 2.1-1, Residential Categories and Allowed Densities, of the FLU Element of the Plan, and utilize a minimum density bonus of 20 percent.

Table 5.G.1.D-15, RT Deviations for WHP ⁽¹⁾

Zoning District	FLU	Lot Dimensions			Setbacks	
		Size	Width and Frontage	Depth	Side	Rear
RT	LR 2	12,000 sf	85'	100'	ND	ND
RT	LR 3	9,000 sf	65'	80'	1 st Floor 10'	1 st floor – 15'
Notes for Table 5.G.1.C-16, RT Deviations for Mandatory WHP						
ND	No deviation.					
1.	Eligible projects must qualify for maximum density in accordance with Table 2.1-1, Residential Categories and Allowed Densities, of the FLU Element of the Plan, and use					

- g. **Option 2 - TND Regulations**
Projects eligible for this option shall be permitted to utilize the PDRs of Table 3.F.3.E-39, TND Residential Lot Size and Setback Regulations, subject to meeting the requirements of Art. 3.F.3.E.5, Residential Uses and the following limitations:
- 1) U/S Tier Only;
 - 2) Project does not qualify to be a TND or use Option 1 or 3;
 - 3) If the subject site has a LR-1, LR-2, LR-3 or MR-5 FLU designation, the project shall meet all requirements for and be approved as a PDD;
- h. **Option 3 - Flexible Regulations**
Projects with MR-5, HR-8, HR-12, HR-18 FLU designations, or if approved as a PDD or TDD, may deviate from the residential requirements of Table 3.D.1.A-5, Property Development Regulations, or Table 3.D.2.B-7, ZLL Property Development Regulations, as follows:
- 1) SFD units may be permitted up to a maximum ten percent deviation for the following PDRs: lot size; width and frontage; building coverage; and, side, and rear setbacks.
 - 2) SFD units limited to one floor with no loft or other similar feature, may be permitted up to a maximum 20 percent deviation for the following PDR's: building coverage; and front and side street setbacks.
 - 3) ZLL lots may be permitted up to a maximum lot width reduction of five feet, and ten percent deviation from the minimum lot size, building coverage, and front setback for units with front loading garages.
- i. **Option 4 - PDD Open Space Reduction**
Projects which elect to utilize a density bonus of not less than 15 percent, may reduce the 40 percent open space requirement of Table 3.E.2.C-15, PUD Land Use Mix, to not less than 30 percent open space, provided the project incorporates common usable open space areas as defined in Article 1, Usable Open Space for WHP.
- j. **Option 5 – Internal Incompatibility Buffers**
Required incompatibility buffers between SFD and MF units within a WHP development shall not be required.
- k. **Option 6 – Relocation of Units to Civic Tracts**
Residential units may be permitted in a civic pod subject to PREM approval. This may include collocating residential units with civic uses. The DRO shall have the following authority where PREM approval is obtained after BCC approval of the overall project:
- 1) In the case of a civic site cash out, the deletion of the civic pod and increase in residential pod area; and,
 - 2) The relocation of residential units to a civic pod, or the relocation of residential units where the civic pod is deleted.

E. **WHP Off-site Options**

WHP units may be located off-site using the options listed below and in accordance with the provisions of Table 5.G.1.B-13, Workforce Housing Program; however, under no circumstances shall any site be permitted to develop at a density greater than that permitted by the Plan. Prior to issuance of a building permit, or final DRO approval if applicable, all contracts or related agreements for any off-site option shall be approved by the County Administrator, or designee. Off-site options may be accommodated in municipalities located within Palm Beach County.

a. **Option 1 – Off-site Construction**

Notes:

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INCLUSIONARY WORKFORCE HOUSING PROGRAM
SUMMARY OF ULDC AMENDMENTS
(Updated 9/27/06)

Building permits shall be issued for a minimum of 50-percent of the required WHP units to be constructed off-site prior to the issuance of the first CO in the subject development. All off-site WHP units must receive CO prior to issuance of more than 75-percent of the CO's in the subject development.

b. Option 2 – Purchase Market Rate Units

Purchase of an equivalent number of existing market rate units to be deeded to the County or sold to eligible households and deed restricted. The developer may retain the title to off site units subject to recordation of a deed restriction that meets the intent of this provision. A minimum of 50-percent of the units must be purchased and deeded to the County or deed restricted prior to the issuance of the first CO in the subject development. All market rate units shall be purchased and deeded to the County or deed restricted prior to issuance of more than 75-percent of the CO's in the subject development.

c. Option 3 – Donate Buildable Land

Donation of developable land acceptable to the County in an amount equal to the buyout costs of the affected units. Donated land must be deeded to the County prior to issuance of the first building permit in the subject development.

d. Option 4 – In-lieu Payment

The in-lieu payment shall be \$81,500 per unit. The payment shall be deposited in a WHP Trust Fund maintained by the PBC Department of HCD.

F. Additional Requirements for >30% Density Bonus

Projects requesting a density bonus greater than 30 percent shall comply with the following:

1. Sector Analysis

WHP projects, including relocated WHP units, shall be equitably distributed so that there is no undue concentration of very-low and low income households housing. Table 5.G.1.C-16, WHP Density Bonus Guide indicates the maximum density bonus permitted. Prior to submittal of a WHP pre-application, the applicant shall meet with the Planning Director to establish the sector within which the distribution analysis shall be conducted. The boundaries of the sector shall be approved by the Planning Director.

Table 5.G.1.C – 16, WHP Density Bonus Guide

% of Affordable Housing in Sector	> 50%	40-50%	20-40%	0-20%
Maximum Density Bonus ⁽¹⁾	40%	60%	80%	100%
Notes for Table 5.G.1.C-16				
1. The Planning Director may recommend a density bonus in excess of the Maximum Density Bonus where the project serves to mitigate existing very low and low income concentrations by including a mix of higher income market rate units or Medium 1, Medium 2 and Middle Income WHP units.				

a. The sector shall be proportional to the size and character of the proposed development. At a minimum, the sector shall consist of one or more neighborhoods that include features such as schools, shopping areas, an integrated network of residential and collector streets bounded by arterial roads, civic uses, localized shopping, and employment opportunities. For data and analysis purposes, the sector shall be adjusted to accommodate census tracts or census block groups but shall not extend beyond important physical boundaries that may include a major arterial roadway or a wildlife refuge.

b. Household income characteristics for the sector shall be derived from the most current available census data. The income level of a "family of four" shall be used for the determination of households within the low, moderate and middle income household categories. The analysis of housing and demographic data within the sector shall be in a manner and form approved by the Planning Director.

2. Pre-Application

An application for density bonus greater than 30 percent shall require the submittal of a pre-application prior to submittal of a Zoning or Building permit application for purposes of establishing a density bonus determination.

a. Contents

The pre-application shall be in a form established by the Planning Director, and made available to the public.

b. Sufficiency Review

The pre-application shall be subject to the provisions of Art. 2.A.1.G.3, Sufficiency Review.

c. Compliance

The density bonus shall not be granted until the project is found in compliance with HE 1.5.h. in the Plan.

d. Density Determination

The Planning Director shall provide a written density determination letter within ten days of determining the pre-application is sufficient. The determination shall be based on the sector analysis, size, location and development characteristics of the project with consideration given towards affordability, accessibility, proximity to mass transit or employment centers, compatibility, quality of design, pedestrian and vehicular circulation.

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INCLUSIONARY WORKFORCE HOUSING PROGRAM SUMMARY OF ULDC AMENDMENTS

(Updated 9/27/06)

open space, and resource protection. The Planning Director shall prepare a report for the applicant, DRO, ZC, or BCC, whichever is appropriate, making a determination of compliance with this chapter, consistency with the Plan and recommend approval, approval with conditions, or denial of the request.

G. Affordability Requirements

Where applicable, the required percentage, affordability ranges and provision of units, shall be in accordance with Table 5.G.1.B-13, Workforce Housing Program.

1. Sales and Rental Prices of WHP Units

All required WHP units shall be offered for sale or rent at an attainable housing cost for each of the targeted income ranges. The sale and rent prices may be updated annually by the County Administrator, or designee, based on the Area Median Income (AMI), and the household income limits for PBC (West Palm Beach/Boca Raton metropolitan statistical area) as published annually by HUD.

2. Master Covenant

Prior to final DRO approval, the applicant shall record in the public records of Palm Beach County a Covenant binding the entire project, in a form provided for by the County, which identifies each required WHP unit. In the event the project is not subject to final DRO approval, the applicant must submit a recorded copy of the Covenant to Building Division prior to issuance of the first building permit. The Covenant shall include but not be limited to restrictions requiring: that all identified WHP units shall be sold, resold, or rented only to low, moderate 1, moderate 2, or middle-income qualified households at an attainable housing cost for each of the targeted income ranges; that these restrictions remain in effect for 25 years for units sold to eligible households, and 50 years for rental units, from the date each unit is first purchased or designated as WHP rental unit; and that in the event a unit is resold before the 25 or 50 year periods conclude, a new 25 or 50 year period shall take effect on the date of resale. The Covenant shall further provide monitoring and compliance requirements including but not limited those set forth below to ensure compliance with the WHP. Every deed for sale of a WHP housing unit shall incorporate by reference the controlling Covenant.

3. Monitoring and Compliance

Prior to the sale, resale, or rent of any WHP unit established pursuant to this program, the seller shall provide the County Administrator, or designee, documentation sufficient to demonstrate compliance with the WHP. Such documentation shall include but not be limited to information regarding the identity and income of all occupants of the WHP unit. The owner or lessee of the WHP unit shall submit to the County Administrator, or designee, on a form provided by the County, an annual report containing information and documentation to demonstrate continued compliance with the WHP. The County may conduct site visits at reasonable times, or perform other independent investigation to verify continued compliance with the WHP.

4. Enforcement

The County may enforce the requirements of the WHP through any cause of action available at law or equity, including but not limited to seeking specific performance, injunctive relief, rescission of any unauthorized sale or lease, and tolling of the 25-year term of the WHP.

5. Limitation on Restrictions

WHP units shall not be subject to restrictions beyond income qualifications. The limitation on restrictions may be waived by the ZC, BCC, or Planning Director, only to ensure housing for a specific target group (e.g. disabled populations) where there is a demonstrated need.

H. Annual Report

The Executive Director of PZB shall submit an annual report to the BCC indicating the status of the WHP.

Part 6. ULDC, Art. 7.F.1.B, Compatibility, (page 29 of 48), is hereby amended as follows:

CHAPTER F PERIMETER BUFFER LANDSCAPE REQUIREMENTS

Section 1 Buffer Types

B. Compatibility

Compatibility buffers shall be provided between all compatible use types, excluding: single family residential subdivisions or pods adjacent to single family residential subdivisions or pods; ~~and~~ internal buffers within TDD's unless specifically stated otherwise; or where residential uses are not adjacent to other incompatible design elements such as roadways, useable open space areas, or where residential setbacks are less than adjacent residential development.

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INCLUSIONARY WORKFORCE HOUSING PROGRAM SUMMARY OF ULDC AMENDMENTS

(Updated 9/27/06)

Part 7. ULDC, Art. 12.H.6, Workforce Housing, (page 26 of 38), is hereby amended as follows:

CHAPTER H Affordable Housing

Section 6 Workforce Housing

~~A WHP development that meets the requirements of Art. 5.G.1, Workforce Housing Program will not be required to meet the traffic performance standards set forth in Art. 12, if traffic generated by the development is less than or equal to five percent of the service volume for all affected intersections and Links.~~

TE Policy 1.2-b of the Plan allows special methodologies to be applied for WHP projects. The projects net trips associated with the non-WHP units attributable to the standard density and all non-residential land uses shall be subject to the 1% of adopted level-of-service. The project's net trips associated with all remaining residential units of the project (including WHP units) shall be subject to a 5% of adopted level-of-service significance level in determining compliance with TPS.

To address any adverse impacts on Florida's Strategic Intermodal System (SIS) facilities, any development utilizing this exception and significantly impacting SIS facilities shall be required to address impacts on the SIS facilities.

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1 **Section 4. Severability**

2 If any section, paragraph, sentence, clause, phrase, word, map, diagram, or any other item
3 contained in this Ordinance is for any reason held by the Court to be unconstitutional,
4 inoperative, void, or otherwise invalid, such holding shall not affect the remainder of this
5 Ordinance.

6 **Section 5 Providing for a Savings Clause**

7 All development orders, permits, enforcement orders, ongoing enforcement actions, and all
8 other actions of the Board of County Commissioners, the Zoning Commission, the Development
9 Review Committee, Enforcement Boards, all other County decision-making and advisory
10 boards, Special Masters, Hearing Officers, and all other County officials, issued pursuant to the
11 regulations and procedures established prior to the effective date of this Ordinance shall remain
12 in full force and effect.

13 **Section 6. Inclusion in the Unified Land Development Code**

14 The provisions of this Ordinance shall be codified in the Unified Land Development Code
15 and may be reorganized, renumbered or re-lettered to effectuate the codification of this
16 Ordinance.

17 **Section 7. Providing for an Effective Date**

18 The provisions of this Ordinance contained in Exhibit A shall become effective upon the
19 effective date of the amendments to the Palm Beach County Comprehensive Plan transmitted
20 as item 2.D.1, Workforce Housing Program in amendment round 2006-01, or December 1st,
21 2006, whichever occurs last.

22
23 **APPROVED and ADOPTED** by the Board of County Commissioners of Palm Beach

24 County, Florida, on this the 21st day of November, 2006.

SHARON R. BOCK, CLERK &
COMPTROLLER

PALM BEACH COUNTY, FLORIDA, BY
ITS BOARD OF COUNTY
COMMISSIONERS

By: 

Deputy Clerk

By: 

~~Chairman~~

Addie L. Greene

John (Jeff) Koon, Vice Chair

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By: 

County Attorney

25
26
27 Filed with the Department of State on the 28th day of November, 2006.

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ORDINANCE NO. 2006

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